

LAKE CUMBERLAND

SHORELINE MANAGEMENT PLAN

REVIEWED AND UPDATED 2012

ATTACHMENT TO PART II OF THE
LAKE CUMBERLAND OPERATIONAL MANAGEMENT PLAN

FOR ADDITIONAL INFORMATION PLEASE CONTACT THE
LAKE CUMBERLAND NATURAL RESOURCE MANAGEMENT OFFICE
BY MAIL AT:

US ARMY CORPS OF ENGINEERS
855 BOAT DOCK ROAD
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U.S. ARMY CORPS OF ENGINEERS
NASHVILLE DISTRICT - LAKE CUMBERLAND

SHORELINE MANAGEMENT PLAN
APPENDIX TO PART II OF THE OPERATIONAL MANAGEMENT PLAN
"December 2002"

1. **Authority.** The authority for the preparation of this document is contained within ER-1130-2-406, Shoreline Management at Civil Works Projects.

2. **References.**

- a. Section 10 and 13, Rivers and Harbors Act of 1899 (33 USC 403).
- b. The National Environmental Policy Act of 1969, PL 91-190.
- c. Section 404 of The Clean Water Act (PL 92-500, 86 STAT. 316, 33 U.S.C. 1344).
- d. ER 1130-2-406, "Shoreline Management at Civil Works Projects."
- e. Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers."
- f. Section 6, PL 97-140, as amended by Section 1134(d), PL 99-662.
- g. 33 CFR 320-330, Regulatory Programs of the Corps of Engineers.
- h. ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects."
- i. ER 1130-2-540, Environmental Stewardship Operations and Maintenance Policies.
- j. National Historic Preservation Act of 1966. (PL 89-665; 80 STAT. 915) as Amended (16 USC 470 ET. Seq.)
- k. Federal Register, Vol. 77, No. 34, Page 10184, February 21, 2012, "Final Notice of Issuance of Nationwide Permits; Notice."
- l. CEORDR 405-2-13, "Issuance of Minor Licenses and Permits at Water Resources Projects." (UNDER REVISION).
- m. Federal Register, Volume 63, No. 126, July 1, 1998, "Shoreline Use Permits, Flotation."
- n. ER 405-1-12, Real Estate Handbook.

o. Non-Recreational Outgrant Development Policy, dated 30 March 2009

3. **Purpose.** This Shoreline Management Plan (SMP) provides policies and guidelines for the effective long-range management of the shoreline resources of Lake Cumberland. Lake Cumberland is an extremely popular site for a variety of outdoor recreational activities. Recreational demands and development pressures increase each year, yet the total amount of public land and water area remains fixed. Sound management is necessary to provide optimum use of project resources for present and future generations. This plan is an appendix to the project Operational Management Plan.

4. **Objectives of the Plan.** The objectives of this plan are to protect and restore the natural environmental conditions of Lake Cumberland while achieving a balance between existing permitted private uses and resource protection for general public use. In accordance with the provisions of the National Environmental Policy Act of 1969, a primary goal in management of lake resources is to establish and maintain acceptable fish and wildlife habitat, preserve aesthetic qualities, safeguard water quality, and promote the safe and healthful use of the lake and surrounding public lands by the general public. Sound management of shoreline resources is an integral aspect of the Corps of Engineers Environmental Operating Principles.

The increasing residential development of private property adjoining Lake Cumberland has resulted in a higher demand for private exclusive use of the shoreline. Experience has shown that long-range management is necessary to provide for public recreational needs and to prevent shoreline alterations that adversely affect lake values. In the absence of sound management, substantial portions of public lands adjoining the lake could be cleared of natural vegetation and become congested with private moorage facilities and other structures. Public lands which are available to all the people, could be converted to the appearance of private property of adjoining landowners. This plan contains definitive guidance that limits private exclusive uses in favor of conserving the natural environment for the use and enjoyment of the general public. The development of this plan has included full consideration of existing permitted private use facilities or privileges and prior commitments made regarding them.

5. **Description of the Lake.** Lake Cumberland was created in 1950 by the completion of Wolf Creek Dam at river mile 460.9 of the Cumberland River about 10 miles southwest of Jamestown, Kentucky. The lake extends 101 miles upstream through Russell, Clinton, Wayne, Pulaski, McCreary, Whitley, and Laurel Counties.

The shoreline of Lake Cumberland is highly irregular and broken by many deep inlets and coves. Its 1,255 miles of shoreline is mostly steep and rocky, making access difficult. Hardwood trees, mixed with cedar and pine, border most of the lake.

Although the lake was authorized for the purpose of flood control and hydroelectric power generation, recreation has become an extremely important benefit. Local residents and millions of visitors from many states enjoy boating, fishing, swimming, camping, hiking, hunting, picnicking, sightseeing, and other outdoor activities on and around the lake. Tourism to Lake Cumberland has far-reaching economic benefits to the entire Lake Cumberland area and its surrounding counties.

6. **Land Exchange with the U.S. Forest Service.** In September 1979, a land exchange took place between the Corps and the U.S. Forest Service. All Corps property on the South Fork upstream of the confluence with the Little South Fork (excluding lands bordering the Little South Fork itself), and the main stem of the Cumberland River upstream of the confluence with Buck Creek was transferred to the Forest Service. These areas were primarily within the boundaries of the Daniel Boone National Forest. Downstream of these points, U.S. Forest Service land below a general guide-taking line of 765 feet msl was transferred to the Corps. In all, 566.3 acres were transferred to the Corps and 3,118.4 acres were transferred to the Forest Service. The U.S. Forest Service will use this Shoreline Management Plan as a guide in administering private use permits in the areas under Forest Service management.

The Corps has reserved the right to use all the lands transferred that are necessary for project purposes. These uses include, but are not limited to, timber clearing if necessary for flood control purposes, using the land for flood storage, to construct and maintain utility lines, transmission lines, access roads, and to make improvements in the aid of navigation. Also, the Corps continues to have jurisdiction over all waters of the United States with respect to regulatory permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

7. **Present Land Use.** There are 11 Corps of Engineers recreation areas, five U.S. Forest Service areas, two National Park Service areas, three State parks, one County park, and 11 commercial marinas that provide public access to the lake. All commercial docks and recreation areas have paved ramps and parking areas. Parking space is limited in some areas, due to the steep terrain.

Over 50 additional access roads have been outgranted to various counties or to the Commonwealth of Kentucky, although some of

these areas are suitable only to access by four-wheel drive vehicles. There are also large tracts of undeveloped lands surrounding the lake, and lake users can enjoy miles of natural shoreline unbroken by roads, ramps, or other development.

8. **Residential Development On Adjoining Property.** Residential development of adjoining private property surrounding Lake Cumberland has continued to increase each year and pressure for use of the shoreline has also continued to increase. The protection of the shoreline from overuse and the preservation of the natural beauty of the public land and water for all of the visiting public is a major goal of this Shoreline Management Plan and the Resource Manager and staff.

9. **Initial Permit Policy 1950-1973.** Prior to formulation of the initial Lakeshore Management Plan in 1973, adjoining private landowners were routinely given approval for use of public lands (mowing, pipelines, and improved access) and for the placement of boathouses and boat docks on the lake. Applications for these permits were accepted for all areas of the lake except recreation areas and other developed areas.

10. **Development of the Lakeshore Management Plan, 1973-1987.**

a. **Early Planning.** Due to the increasing number of land use and moorage privileges that were being issued on Lake Cumberland, the potential for serious problems related to ecology, aesthetics, pollution, and diminishing long-term "quality" public use became evident. In addition, the continued development of private docks and increased shoreline landscaping began to give the public land the appearance of being privately owned land. A need for stricter controls over the use of public lands and waters became evident. It was apparent that the continued development of lawns on public lands and private docks along the shoreline would be detrimental to the aesthetic and recreational environment of the lake. The resource management personnel at Lake Cumberland conducted a lakeshore management study.

b. **Public Involvement.** Public meetings were advertised and held in Somerset and Jamestown, Kentucky to solicit public input into the development of a formal Lakeshore Management Plan. Letters, news releases, and public notices were also circulated. Most of the many written and oral comments received were very favorable. After evaluating all public input, the draft plan was revised and the final plan was released in 1973.

11. **1987 Update of the Lakeshore Management Plan.** The 1973 plan was generally well accepted. Over the years, however, with continuing private development around the lake and ever-increasing recreational visitation, it became apparent that

further action was required to ensure the long-term protection of recreational, aesthetic, and other environmental values for which Lake Cumberland has become noted. The 1987 update was intended to achieve that goal by increasing the amount of protected areas around the lake, limiting the types of shoreline alterations permitted, and encouraging environmentally compatible types of uses in limited development areas. Most of the additional areas to be designated as "Protected" were undeveloped. Every effort was made to minimize impacts of proposed changes on lakeside property owners. The update mentioned possibly closing the entire lake to private docks in the future.

Public input was solicited to aid in the development of the proposed update through news releases, direct mailings to lakeshore property owners, public notices, and two public hearings held in Jamestown, Kentucky on March 17, 1986 and Somerset, Kentucky on March 18, 1986. Participation at the meetings as well as after-meeting responses was excellent. The majority of participants and respondents supported the provisions of the updated plan. No objections were received in response to possible future prohibitions of additional private docks. The plan was modified to reflect the views expressed at the meetings and was approved by the Division Engineer.

12. **1994 Shoreline Management Plan.** The 1987 update of the Lakeshore Management Plan made strides toward achieving the goal of ensuring the long-term protection of recreational, aesthetic, and other environmental values of Lake Cumberland by increasing the amount of protected areas. The 1994 Shoreline Management Plan took into consideration the value of tourism and the economic benefit tourism has on the entire Lake Cumberland area.

Lake Cumberland has one of the highest visitation figures in the country each year due to its unforgettable natural landscapes and recreational opportunities. Studies have shown that on average, visitors to U.S. Army Corps of Engineers lakes spend about \$21.50 for each day use visit, and \$82.57 for each camping visit in the lake area. These expenditures include those for food, fuel, overnight accommodations, bait, souvenirs, etc. For example, in 2001 Lake Cumberland received over 4.7 million visits, which created an economic benefit to the entire lake region estimated at over \$148.9 million.

Past experience has shown that new development has occurred in areas that have never been open to private docks. Most individuals who desire to live in close proximity of the lake do so without the guarantee of having private exclusive use of the lake for moorage. Also, there has been a large increase in commercial marina and upland dry storage facilities and each area of the lake has reasonable access to public launching areas.

With the importance of the economic benefit of tourism to the entire surrounding area of Lake Cumberland and the expectation that tourism would continue and possibly increase each year, the demand for increasing the number and size of private moorage facilities conflicted with preserving Lake Cumberland's natural beauty for years to come. In order to maintain this goal, the 1994 draft update of the SMP proposed to accept no new applications for privately owned moorage facilities or enlargement of existing facilities on Lake Cumberland following a six-month grace period.

Public meetings on the 1994 SMP were held in Russell Springs, Kentucky on October 18, 1993, Somerset, Kentucky on October 19, 1993, and Monticello, Kentucky on October 20, 1993. The meetings were well attended and those who participated had the opportunity to voice their individual concerns or agreement with the Shoreline Management Plan update during individual breakout sessions. Questions and concerns were recorded and each participant at the meetings received a mailed copy of written responses to all questions raised at the meetings.

A thirty-day written comment period took place after the public meetings for those who were not able to attend the meetings. It also gave those who attended the meetings a chance to review the draft plan in detail and offer additional comments. The plan was modified to increase the time period for those individuals who were still eligible to apply for a private moorage facility from six months to an eight-month grace period. The updated Shoreline Management Plan was signed by Ohio River Division Commander, Major General Albert J. Genetti, Jr. on May 2, 1994. On January 11, 1995 all existing Limited Development Areas were converted to Protected Areas and no new applications for private moorage facilities or enlargements to existing facilities were accepted.

13. **2002 Shoreline Management Plan.** In order to obtain a better understanding of the public's opinion toward the latest revision of the Shoreline Management Plan, individuals were given the opportunity to comment on the 1994 SMP and give feedback on its goals and objectives. An "Invitation For Comments" advising the public about the impending update of the SMP was distributed to current Shoreline Use permittees as well as individuals who had contacted the Resource Manager's Office wishing to be notified of the SMP update. Public notices were sent to the area newspapers and radio stations, as well as distributed to the attendees at area boat shows. The 1994 SMP was also placed on the Nashville District's web site. The letters and public notices instructed the public to review the current SMP on the web site and it also gave them the opportunity to send written and e-mail comments regarding their views on the upcoming 2002 update. Copies of the

SMP were mailed to those individuals who did not have access to the internet.

Comments were accepted during the invitation for comments period, January 15, 2002 through March 1, 2002. Following the public information workshops held on April 22 & 23, comments were accepted on the "Draft" SMP update through May 24, 2002. Comments covered a wide range of SMP issues. The evaluation of all comments received did not indicate the need for a change to the objectives of the SMP. Numerous comments received urged the Corps to keep the Lake Cumberland shoreline free from additional private exclusive use development such as individual and community docks.

The 2002 SMP will continue to prohibit new privately owned moorage facilities. Continued prohibition of future private exclusive uses, such as private moorage, will further the objective of protecting the natural environmental resources of Lake Cumberland for general public use.

In recent years, several community dock associations and individual moorage permit holders have raised concerns over the prohibition of enlargements to dock structures. These concerns are based on the current dimensions of existing dock slips in comparison to the increasing width and length of newer boats. In order to accommodate members with larger runabouts, pontoons, etc. and still maintain overall square footage of the structure, some community dock associations had decreased the size of walkway fingers in order to make slips wider. In some cases this has resulted in unstable walkway fingers and a subsequent safety concern. Comments received during both comment periods, and the public workshops supported this concern.

Individual and community docks will not be allowed to enlarge for the purpose of additional slips. However, individual docks, and slips within community docks will be allowed to increase in size provided that: (a) the dock or slip is not currently larger than the maximum size allowed, (b) the enlargement does not encroach on other adjacent permitted docks (must be at least 50 feet apart), and (c) the dock structure does not extend more than one-third the distance across a cove or other body of water.

The size requirements for individual and community dock slips are listed under Sections 19.a. and 19.b.

14. **Grandfathered Private Moorage Facilities.** All private moorage facilities with a current Shoreline Use Permit as of January 11, 1995 are covered under a grandfather clause. The Resource Manager will honor all existing Shoreline Use Permits for private moorage facilities unless the dock or structure

presents a safety hazard, the permittee fails to comply with the conditions of the permit, or the District Commander revokes the permit when the public interest necessitates such revocation. If the facility becomes unsafe, or if permit conditions are violated, the permit will be revoked, the permittee will be required to remove the facility from public property, and another permit or outgrant will not be issued. If a permittee sells his/her adjoining private property (that property designated on the Shoreline Use Permit with appropriate Deedbook and Page Number) and individual dock, the Shoreline Use Permit becomes null and void (See Section 19 *Private Moorage Facilities*). However, a new permit may be issued to the new owner after he or she submits a complete application and the required fees, provided that the new owner does not already have an existing permitted dock on the lake, and he or she is not a member of a community dock.

Grandfathered individual docks, community docks, and courtesy floats can be repaired or replaced by the permittee if needed, provided that the structure is repaired or replaced in accordance with approved dock plans.

15. **Section 6, Public Law 97-140 amended by Section 1134(d), Public Law 99-662.** Public Law 97-140 states that a dock, cabin or appurtenant structures, lawfully installed on or before December 29, 1981 cannot be removed except when the dock or structure presents a safety hazard, the permittee fails to comply with the conditions of the permit, or the District Commander revokes the permit when the public interest necessitates such revocation. While this does not technically extend such provisions to docks installed after 1986, the Corps will, as a matter of policy, treat all lawfully installed docks in the same manner, regardless of the date of installation. If the dock presents a safety hazard that is not corrected, or the permittee fails to comply with permit conditions, the permit will be revoked. When a permit is revoked for any of the above causes, the dock must be removed, and another permit or outgrant will not be issued. If a structurally sound dock is damaged, destroyed by a storm, or natural disaster, repairs will be authorized. Repairs to the dock must conform to the size dimensions indicated on the permittee's approved dock plans.

16. **Shoreline Allocation.** The entire shoreline of Lake Cumberland is currently allocated as follows: Prohibited Access Areas, Public Recreation Areas, and Protected Shoreline Areas.

a. **Prohibited Access Areas.** These are areas that are established for the physical safety of the public. Private exclusive use facilities or privileges are not allowed in these areas. The following areas are within this classification:

(1) Wolf Creek Dam and Powerplant, including the posted danger areas upstream and downstream.

(2) Cooper Power Plant at Burnside.

b. Public Recreation Areas. These areas include Corps recreation areas and launching ramps; other Federal, State, County, and local parks, ramps, and recreation areas; public marinas; group camps; etc. These areas have been developed around the lake in accordance with the Project Master Plan to provide for recreational needs of the general public. The Lake Cumberland Master Plan and Operational Management Plan, Part II, contain descriptions of these areas. Shoreline Use Permits cannot be granted within, or adjacent to, these areas. Future recreation areas are also included in this classification. Existing Shoreline Use Permits in future designated recreation areas will be honored until the area is developed for public recreation use.

c. Protected Shoreline Areas. These are areas that have been established to retain the natural, undeveloped character of the shoreline, maintain shoreline aesthetics, preserve historical importance, prevent erosion, and protect other environmental values of the lake. The ultimate goal in these areas is to protect them from private exclusive uses that would be contrary to the long-term, best interests of the general public. Other areas classified as Protected are those characterized by physical limitations of depth, terrain, or susceptibility to wind, wave, or current action. Fish and wildlife areas, scenic or cultural resource areas, and areas in the proximity of commercial marinas, recreation areas, or other large public land holdings are included in this designation.

Pedestrian access, boating, fishing, hunting, hiking, photography, and other recreational activities are allowed in these areas as long as they are compatible with the protection of the shoreline and with state hunting, fishing, and boating laws. Access paths and items under Section 24 *Activities Requiring Real Estate Instruments* may be authorized in Protected Areas upon receipt of proper permits or outgrants obtained through the U.S. Army Corps of Engineers, Nashville District. Only grandfathered private moorage facilities are permitted in Protected Areas.

17. Permits Required. The items mentioned in this plan are approved by either a Shoreline Use Permit, Specified Acts Permit, Real Estate outgrant, or Department of the Army Permit. All applications for privileges or improvements shall be coordinated through the Resource Manager. The Resource Manager will forward applications for activities that require action by the Corps'

Real Estate Division or Regulatory Branch to District Office in Nashville in accordance with local procedures.

18. **Activities Requiring Shoreline Use Permits.** Shoreline Use Permits are issued for grandfathered private moorage facilities, ski courses, and firelane permits on public property. Any alteration or modification of natural vegetation or landforms on public property at Lake Cumberland is prohibited without the express written approval of the U.S. Army Corps of Engineers. However, drift, debris, and any form of garbage may be removed without formal approval.

Shoreline Use Permits are non-transferable. They become null and void upon sale or transfer of the permittee's adjoining private property (that property designated on the Shoreline Use Permit with appropriate Deedbook and Page Number) or the permitted facility. The Shoreline Use Permit also becomes null and void due to the death of the permittee and his/her legal spouse. A new permit may be issued to a new adjoining private property owner after he or she submits a complete application and the required fees. The Resource Manager will receive and process all applications for Shoreline Use Permits. New owners must apply for a Shoreline Use Permit within 14 days after purchasing their property or remove the facility and restore the use area within 30 days from the date of ownership transfer. Private moorage facilities are not to be moved from their original location unless completely removed from public property. The facility is to be moored directly adjacent to the location designated by the Resource Manager or his/her representative.

19. **Private Moorage Facilities.** Information in this section provides guidance on the administration of grandfathered private moorage facilities. Private moorage facilities consist of individual docks, community docks, or courtesy floats, as described below. Private moorage facilities are for the moorage of boats only and shall not contain diving boards, slides, playground equipment, grills, tables, furniture, or similar facilities.

a. **Individual Docks.** A permittee of an individual dock and/or his/her spouse is only allowed one dock on Lake Cumberland. Therefore, an individual and/or his/her spouse who already has a permitted individual dock and purchases an additional tract of land with a permitted individual dock may retain only one of the permitted docks. This also applies to membership in a community dock. If an individual and/or his/her spouse become members of a community dock association on Lake Cumberland, they must relinquish the individual dock permit, or keep the individual dock and resign from the community association. Only two boats legally registered to the permittee may be moored at the dock and

the registration numbers must be furnished to the Resource Manager. The permittee will be responsible for all watercraft moored at the permitted dock. The permitted dock may not be rented, leased, or licensed to other individuals or used for any purpose other than moorage of the permittee's boats. Permits will not be renewed until conflicts with Corps policies are resolved.

(1) Location. All docks must be located at least fifty feet away from any other dock. The Resource Manager or his/her representative will designate the exact location of each facility.

(2) Size. Changes to existing docks may be approved by the Resource Manager's Office. The maximum size of individual docks is 400 square feet. Square footage is calculated by excluding the walkway but including all slips and the water area within those slips. Existing docks are also limited to the following size requirements: Walkways shall not exceed 20 ft. in length by 4 ft. in width. The width of a dock may not exceed 30 ft. and the length of a dock (including the walkway) may not exceed 40 ft. If in a cove, the dock and walkway combined shall not exceed forty feet in length or one-third the width of the cove, whichever is less. These size limits may be reduced by the Resource Manager, if necessary, to protect navigation interests or public recreational use of the lake.

(3) Construction Criteria. Fixed piers, fixed docks or other non-floating structures are prohibited. Docks must be properly constructed and firmly secured in place. Dock revisions or replacements must be constructed and in place within 180 days of the date of approval of plans or the approval is void. No deviation or changes from approved plans will be allowed without prior written approval of the Resource Manager. The facility is subject to periodic inspection. Docks cannot be moored to trees, and therefore must utilize one of the following shoreline anchoring methods placed above the 725' contour line:

(i) Eyebolts grouted and set in concrete through which the cables are fastened.

(ii) Pressure treated wood or steel posts set in concrete. Posts shall be a maximum height of 12".

(iii) Concrete deadman anchors placed on or in the ground to which the cables are fastened.

(iv) Winches set in concrete. Only hand-operated types allowed.

Floats and the flotation material for all docks and boat mooring

buoys shall be fabricated of materials manufactured for marine use. The float and its flotation material shall be 100% warranted for a minimum of 8 years against sinking, becoming waterlogged, cracking, peeling, fragmenting, or losing beads. All floats shall resist puncture and penetration and shall not be subject to damage by animals under normal conditions for the area. All floats and the flotation material used in them shall be fire resistant. Any float that is within 40 feet of a line carrying fuel shall be 100% impervious to water and fuel. The use of new or recycled plastic or metal drums or non-compartmentalized air containers for encasement or floats is prohibited. Existing floats are authorized until it or its flotation material is no longer serviceable, at which time it shall be replaced with a float that meets the conditions listed above. For any floats installed after September 14, 1992, when this specification became effective, repair or replacement shall be required when it or its flotation material no longer performs its designated function or it fails to meet the specifications for which it was originally warranted. The Resource Manager's Office maintains a list of approved flotation suppliers. If a permittee wishes to purchase flotation from a supplier that is not on the approved list, a specification sheet that identifies the manufacturer shall be furnished to the Resource Manager for approval before the flotation is placed under the dock.

Buoyancy of flotation material must equal twice the weight of the structure, as a minimum. The walkway must have flotation and be capable of adjusting to fluctuations of the lake level.

Pressure treated wood, steel, aluminum, concrete, fiberglass, or a combination of these are acceptable building materials for docks. Roofs or enclosed boathouses are not permitted. A storage compartment not to exceed forty cubic feet may be constructed on the dock to store equipment related to boating. The height of an approved storage compartment may not exceed four feet. If the dock is painted or carpeted, it should be an earth-tone color, such as green, brown, or tan. A permit tag furnished by the Resource Manager must be permanently affixed to the front of the dock, as viewed from the water, six inches from the right side.

(4) Maintenance. The permittee must maintain the structure in a safe and structurally sound condition. The dock must be floating at all times and is required to be removed from public property when not being maintained in the water. The facility is subject to periodic inspection. If the dock has been removed from public property, it must be stored in a location in the Lake Cumberland area so that it can be easily inspected.

The Shoreline Use Permit for a dock will not be renewed until the dock has been physically inspected. If a permittee no longer has

his/her dock, the permittee will be given 180 days to re-construct the dock. Replacement or repairs to the dock must conform to the size dimensions indicated on the permittee's approved dock plans. The permittee must supply a caretaker to serve in his/her absence to provide protection during fluctuations of the lake level or adverse weather conditions. The caretaker must be a local resident and the permittee is responsible for notifying the Resource Manager if the caretaker changes.

b. Community Docks. Community moorage facilities are permitted only to legal non-profit corporations. Copies of the state certificate of incorporation, the corporate charter, corporate by-laws, a list of officers, members (names, addresses, phone numbers, and subdivision lot numbers or deed book and page) and their boat registration numbers (vessels to be moored at the facility) must be submitted to the Resource Manager when the dock permit is renewed. In addition, the community dock association must furnish the Resource Manager with changes to the above items annually. The charter must state that, "The purpose for which the corporation is organized is to obtain a permit from the U. S. Army Corps of Engineers to construct and maintain a private boat dock facility, and not to engage in any activities which are inconsistent with local, state, or federal laws."

In order to be permitted, the non-profit association, not association members, must own the community dock. Individual slips may not be rented, leased, licensed, or sold, nor may any other commercial activity be associated with the operation of the facility.

Community dock facilities shall not extend more than one-third the distance across a cove or other body of water. The construction criteria are the same as for private individual docks. The community dock must be located within the limits of an area defined by the Resource Manager or his or her representative so that it is at least fifty feet from any other existing dock.

To be eligible for membership in a community dock association, an applicant must own private property within the area served by the community dock. The area served by each community dock permit was determined by the Resource Manager when the original permit was issued. This area is delineated by a map or written designation located in the permit file. The applicant's property, for association membership, must also meet the Lake Cumberland District Health Department's residential construction requirements for septic systems. Residential units must be owned by the individual occupants. This excludes apartments or rental units in which residents do not actually hold title to the

from public property within thirty days of written notice to the owner. Trash, litter, and debris shall be removed immediately upon verbal or written notice. Unauthorized items are subject to impoundment and removal by the Corps of Engineers at the owner's expense in accordance with CFR Title 36, Chapter III, Part 327.15.

32. Boundary Line Encroachments. The public property line around the lake has been established and marked with signs, property corners, and blaze marks painted yellow on trees. It is the responsibility of each adjoining landowner to know the exact location of his or her property lines and corners. Construction on, or alteration of, public land can be avoided by proper research and planning, to prevent costly removal of private structures and/or after-the-fact restoration of public property. Removal or alteration of public property line markers or survey points is expressly prohibited by federal statutes.

33. Water Quality. Because Lake Cumberland provides aquatic habitat, recreational opportunities, and a dependable residential, municipal, and industrial water supply, safeguarding the water quality of the lake is of utmost importance. The cooperation of area residents and federal, state, and local agencies is necessary in this effort.

a. Trash, Refuse, Debris. The disposal of household trash, grass cuttings, leaves, tree limbs, waste oil or chemicals, or any other material in the lake and on public lands is strictly prohibited. Burning household trash or garbage on public land is also prohibited.

b. Privately Owned Sanitary Facilities on Adjoining Property. Septic tanks, drain fields, and other sanitary facilities on adjoining private property are regulated by the local Health Department. The construction or installation of a septic tank, drain field, or holding tank on public land is not allowed.

c. Fill Material. The U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into any waterway or adjacent wetland, regardless of ownership, under the authorities of Section 404 of the Clean Water Act and/or the Rivers and Harbors Act of 1899. (See Paragraph 25.) Copies of these regulations are available for public review from the Resource Manager.

d. Non-Point Sources of Water Pollution. The Kentucky Division of Water is responsible for the prevention and control of streambank dumping, unauthorized gravel dredging, siltation from unprotected construction sites, and other activities which occur off federal property in the tributaries of the lake and do

property involved. The incorporated association will determine any additional eligibility requirements for membership and use of the community dock. Since the number of residents may exceed the number of slips available, association by-laws must clearly state the criteria for dock usage and turnover. These criteria shall prohibit discrimination and any form of commercial activities.

In order to maximize the use of a community dock, the association may choose not to assign full time occupancy of slips to specific members. Managing/assigning slips based on use, rather than to an individual, can make the facility available to a much larger number of members. If a community dock association chooses to assign slips to specific members, the number of slips assigned to any member and/or his/her spouse cannot exceed the number of boats registered to that member and/or his/her spouse.

Upon request by the Resource Manager, corporate by-laws must be submitted for review. Changes to by-laws must also be submitted for review to ensure that there are no conflicts with the Shoreline Management Plan or Permit Conditions. Permits will not be renewed until conflicts with Corps policies are resolved.

The corporate by-laws must clearly state:

1. The qualifications for participation.
2. Evidence of membership on a non-discriminatory basis. A Community Dock Association shall not discriminate against any person or persons or exclude them from eligibility for membership in the association because of race, color, sex, religion, age, physical/mental disability, or national origin.
3. Procedures for utilization by members, routine maintenance and removal of inoperable or ineligible vessels.
4. Procedures for re-assignment of slips. Such procedures must provide for re-assignment of slips when any member of the community dock association becomes ineligible for participation, due to death, chooses to end his/her membership, or for any other reason. Use of a waiting list, comprised of names of those who are eligible to become members and have requested to join the association is recommended to cover any situations not addressed by the by-laws.
5. The schedule for regular meetings and procedures to deal with problems occurring between scheduled meetings.
6. That the community dock is owned by the non-profit association, not association members.
7. Reference to the area being served in the bylaws shall

read, "As designated by the Corps of Engineers."

No deviation or changes from approved plans for the dock facilities will be allowed without the prior written approval of the Resource Manager.

The responsible corporate representative must sign a statement certifying that the rules and conditions covering the issuance of the permit have been read, understood, and agreed to by all members.

(1) Size. Changes to existing docks may be approved by the Resource Manager's Office. Enlargements to community docks will only be approved for the purpose of accommodating the increasing length and width of newer boats. Enlargements for the purpose of mooring additional boats will not be approved.

The maximum size of community dock slips will be 10.5 feet wide x 24 feet long for single slips, and 12 feet wide x 24 feet long for multiple slips.

Community dock associations must provide the following information in order to request a change in the size of their moorage facility:

- A detailed drawing of all current dock structures which shows size dimensions of walkways, slips, and slip fingers. The drawing must reference each slip with a unique numeric designation. (This numeric designation will eliminate confusion related to current and future requests for slip enlargements).
- A second detailed drawing of the dock facilities which shows proposed size dimensions. This drawing must also reference the numeric designation.
- All drawings must be submitted on standard (8 ½" x 11"), or legal (8 ½" x 14") paper.

Proposed changes will not be authorized until the revised plans are approved by the Resource Manager's Office.

(2) Access. To provide access to public lands, the non-profit association must provide a dedicated access from a public thoroughfare to the site of the community dock. Access across the public land will be limited to a pedestrian pathway only. Public lands will not be made available for parking. No offshore moorage will be approved. A plat (maximum size 8" x 16") should be provided to the Resource Manager's Office showing the nearest public thoroughfare, long-term access to public land, and public land including the water surface. The source of this long-term interest should be listed (e.g., deed, platbook, etc.).

(3) Construction Criteria. Construction requirements will be the same as those outlined for individual moorage facilities. [Refer to Section 19.a.(3)] Approval of plans will be required prior to revisions to any community dock structure.

(4) Maintenance. The corporation is required to post a performance bond of a sufficient amount to ensure proper maintenance or removal of the permitted facility. The amount is based on the actual value of the facility. The amount of the bond shall be a minimum of 10% of the construction cost of the facility.

The dock must be floating at all times and is required to be removed from public property when not being maintained in the water. The facility is subject to periodic inspection. If the dock has been removed from public property, it must be stored in a location in the Lake Cumberland area so that it can be easily inspected.

(5) Liability Insurance. The corporation is required to hold liability insurance for bodily injury and property damage with a minimum of \$300,000 per person in any one claim, and an aggregate limit of \$300,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death, and \$300,000 for damage to property suffered by any person or persons resulting from the operations of the permittee. The corporation must submit proof-of-insurance once a year to the Resource Manager.

(6) Individual Private Moorage. Any individual private moorage facility that exists within a community moorage boundary may remain. If a permit for a private moorage facility in an area served by a community dock is cancelled for reasons of noncompliance to regulations, a new permit will not be issued.

(7) Offshore Moorage. Offshore or buoy moorage will not be permitted in conjunction with a community moorage facility.

c. Courtesy Floats. Courtesy floats are different from other private docks in that they are only for temporary day use (moorage may not exceed two consecutive days per week). Such floats were authorized to provide daytime boat tie-up and landing facilities for residents of a designated area as determined by the Resource Manager. Courtesy floats must conform to all construction requirements and maximum size limitations applicable to individual private docks. The permit for a courtesy float is issued to the property owners association. Courtesy Float permittees must be legal non-profit corporations. (Courtesy floats differ from courtesy docks installed at an outgranted launching ramp. Courtesy docks at launching ramps are permitted

to the launching ramp outgrantee for public boat loading and unloading only. Courtesy floats under 19.c. are private exclusive facilities open only to members of the non-profit corporations.

20. **Human Habitation.** Private facilities used for human habitation are prohibited on Lake Cumberland. Permitted facilities and any watercraft moored thereto shall not be used for human habitation or in any manner that would imply exclusive private use of the public shoreline or waters. Boats with living accommodations will not be allowed to moor at a private moorage facility. All vessels on Lake Cumberland shall be constructed and maintained in accordance with the standards established by the National Safe Boating Act of 1971 (PL 92-75, 85 Stat. 213).

21. **Ski Courses.** The Resource Manager will determine the approval of a ski course on Lake Cumberland. The applicants must be a legal non-profit organization and are required to have bodily injury liability insurance with a minimum of \$300,000 per person in any one claim, and an aggregate limit of \$300,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death. The applicant must also have property damage liability insurance with a minimum of \$300,000 for damage to property suffered by any person or persons resulting from the operations of the permittee. The permittee must submit evidence of insurance prior to installation of the facility and each time the permit is renewed.

22. **Land Based Activities.** All alterations or modifications of public lands surrounding Lake Cumberland are prohibited without the express written approval of the Corps of Engineers. The only exception to this is that drift, debris, and any form of garbage can be removed without approval. All applications for land-based privileges will be made through the Resource Manager. Some activities require ultimate approval from the Real Estate Division or the Regulatory Branch, and applications for these activities will be forwarded to the District Office in Nashville, Tennessee with the Resource Manager's recommendation, for appropriate action. All Real Estate outgrants will be assessed a fair market rental and an administrative fee. Those activities that can be approved by the Resource Manager and those requiring District Office approval are identified separately below.

23. Land-based Activities Within the Permit Authority of the Resource Manager.

a. **Paths.** The Resource Manager may authorize a natural meandering path not to exceed four feet in width to improve pedestrian access to the lake. The path must blend in with the natural terrain and tree cutting will not be allowed. Native

shoreline stones may be placed on the path provided that they are placed flush with the ground. Access paths across public lands will be restricted to pedestrian use only and will be available for the use of the general public. Construction or placement of concrete, metal, or wooden walkways, steps, or personnel lifts is prohibited. Such structures previously covered by a Real Estate license will be allowed to remain in place provided they are maintained in a safe and presentable condition.

b. Special Activities. The Resource Manager can authorize adjacent private property owners to remove a standing damaged or dead tree on public land if he or she determines that such conditions constitute a danger to adjacent private property. Also, the planting of native trees and/or vegetative species beneficial to wildlife is encouraged on public land. These activities will be considered on a case-by-case basis.

c. Firewood Removal. The Resource Manager can authorize the removal of downed trees or selected damaged/dead standing trees for use as firewood if he or she determines that such removal would not adversely affect natural resource values. There is a fee for this activity.

d. Firelanes. Shoreline Use Permits for maintaining a firelane may be issued by the Resource Manager only for residences existing prior to approval of the 1994 Shoreline Management Plan (May 2, 1994) in cases where a definite fire hazard would result without such maintenance. Any residences constructed after May 2, 1994 do not qualify for a firelane permit. Vegetation removal within the designated firelane area will be limited to one-inch base diameter or less, and the use of herbicides or pesticides are prohibited. The Resource Manager will specify the dimensions of the firelane. The maximum width of a firelane will be 50 feet from the edge of the residence to be protected.

24. Activities Requiring Real Estate Instruments. Items which involve structures placed on public land or changes in landform are covered by a lease, license, or other legal outgrant issued by the Corps Real Estate Division. All commercial activities or development require a real estate instrument. Minor privileges, such as water or electrical lines and access steps are covered under a five-year license.

a. Pipelines. Applications for water pipeline licenses for domestic use will be considered when no other practical source of water is available and when water withdrawals would not adversely affect project operations. All water pipelines and associated electric lines must be buried unless the Resource Manager

determines that physical site conditions preclude such installation and that above-ground installation would not adversely affect public recreation or aesthetics. Non-submersible water pumps must be located on private property. (Floats, solely for the purpose of water pumps, are prohibited.) The fee for a water pipeline license will include a charge for water withdrawal as well as the charge for granting, administering, and inspecting the pipeline right-of-way.

b. Electrical Lighting and Equipment. Electrical equipment, including service for a private dock or shoreline lights, may be permitted upon approval of the Resource Manager, provided that the installation of such equipment does not pose a safety hazard or conflict with other recreational use. Electrical facilities on public property shall be approved only to provide shoreline lighting or power for a permitted private dock.

Applicants must be adjacent property owners who hold a valid permit for a private moorage facility. The Resource Manager or his or her representative will approve the location of all lights on public land.

Electrical installations must meet all applicable electric codes. A South Kentucky Rural Electric Cooperative Corporation or Kentucky Utilities electrical inspector must certify the electrical installation, and a copy of the electrical inspection certificate must be furnished to the Resource Manager before final approval. A copy of every subsequent re-certification (required every five years or after rewiring or adding more outlets) shall also be furnished to the Resource Manager. If a new adjoining private property owner wishes to obtain a license to continue use of existing electrical facilities on public property, he or she must have the wiring re-inspected and provide the Resource Manager with a new inspection certificate in his or her name. Because of the potential hazards of electrical shock, the Resource Manager will require removal of any electrical equipment if the installation cannot be certified. All new electrical lines will be installed underground. Existing overhead lines will be allowed to remain, as long as they meet all applicable electrical codes, regulations and above guidelines, to include compatibility and safety related to fluctuating water levels. Electrical lines or fixtures cannot be affixed to trees on public property.

c. Access steps. Access steps are prohibited on Lake Cumberland unless it is determined that access to a legally permitted dock requires steps to allow safe use of the dock. If an on-site inspection by the Conservation Ranger determines that steps are required to provide access, the Resource Manager will accept a license application with plans for steps, provided that the applicant agrees to maintain the steps in a safe condition.

Steps should be constructed using treated lumber unless site conditions require other materials. Metal or painted wooden steps must be an earth-tone color, such as green, brown, or tan.

Since public land is open to the general public, access steps on public property must also remain open to the public. However, landowners may restrict individuals from crossing their private property.

The grantee shall keep the premises in good order and in a clean, safe condition by, and at the expense of, the grantee. The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this license, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes.

d. Agricultural Leases. Consideration will be given for agricultural leases for row cropping only when the Resource Manager determines that such practices would significantly enhance the wildlife management program at Lake Cumberland.

25. Activities Requiring Regulatory Branch Approval. Activities involving excavation of the lake bottom, depositing dredged or fill material into the lake, construction of outfalls, intakes, pipeline crossings, installation of fish attractors, modifications of wetlands, etc. require Department of the Army approval under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. Some categories of work have previously been authorized under provisions of nationwide or regional permits (general permits) so that an individual Department of the Army Permit is not required. The average processing time for non-controversial, individual permit applications is sixty days from the date a complete application is received in the Corps' Nashville District Office. Because of the public notification process required, controversial applications that involve potentially adverse environmental impacts could take much longer and could ultimately be denied. Therefore, applications should be submitted to the Resource Manager as far in advance of the proposed work as possible.

Fish attractors meet the criteria for approval under the Nationwide Permit for fish and wildlife harvesting devices. Permits for fish attractors may be issued by the Resource Manager.

26. Duration of Shoreline Use Permits. Shoreline Use Permits for grandfathered private moorage facilities, firelanes, unimproved access paths, and similar structures will normally be issued for a five-year period. Permits can be suspended or revoked by the Resource Manager when the permittee fails to

comply with terms and conditions of the permit, the Shoreline Management Plan, Engineering Regulation Number 1130-2-406, or if it becomes necessary to protect public interest.

27. **Consolidation of Real Estate Outgrants and Shoreline Use Permits.** If the same individual holds both a shoreline use permit and one or more real estate outgrants, the terms will be adjusted based on the instrument that is due for renewal first, so that the permit and all outgrants issued to an individual can be renewed at the same time.

28. **Fees.** A non-refundable administrative fee will be charged for Shoreline Use Permits. Real estate outgrants will be assessed a separate fee appropriate to the type of use granted.

29. **Grandfathered Land-Based Privileges.** In an effort to implement this management plan fairly with regard to existing private use on public land, the U.S. Army Corps of Engineers, Nashville District will honor all prior commitments of the government. The "grandfather clause" is a provision which allows existing land-based privileges of a type no longer permitted to continue to the individual who originally obtained the permit or real estate outgrant, provided he or she adheres to all terms and conditions of the permit or outgrant. Such permits or outgrants shall remain in affect until:

a. The transfer of ownership of the permittee's adjoining private property.

b. The death of the permittee and spouse.

c. Permit or outgrant conditions are violated and not corrected upon reasonable notice.

d. The individual voluntarily discontinues the private use covered by the grandfather clause.

When any of these events occurs, the permit or outgrant becomes null and void. Any future private use on public property at that location must conform to requirements of the current Shoreline Management Plan.

30. **Existing Enclosed Boathouses.** Existing enclosed boathouses that were approved prior to the original Lake Cumberland Lakeshore Management Plan in 1973 will be allowed to remain in their present condition. When they change ownership, however, the new permittee will be required to modify the boathouse to create a substantial opening such as a window or fenced door. This will allow the interior of the structure to be readily inspected to ensure that it is not being used as a floating cabin

or does not contain facilities such as refrigerators, stoves, toilets, etc., that are conducive to human habitation.

When a boathouse becomes unsafe or unseaworthy, the permittee will be required to rebuild the facility according to construction criteria for individual docks as outlined in this plan. If the structure is not rebuilt according to these criteria, the Shoreline Use Permit will become null and void.

31. **Prohibited Items and Activities.** Public lands around Lake Cumberland are dedicated and available to full and free use by the general public. Private exclusive uses not specifically authorized in this plan are prohibited. Prohibited items include, but are not limited to:

a. Mowing, landscaping, or underbrush removal including the removal of brush, vines, tree limbs, or other understory vegetation. All existing Shoreline Use Permits for these activities are grandfathered. However, such permits will become null and void when any of the following events occur:

- (1) The transfer of ownership of permittee's property.
- (2) The death of the permittee and his/her spouse.
- (3) Permit conditions are violated.
- (4) Permittee voluntarily discontinues the private use.

b. Structures including patios, fences, sidewalks, drain lines or hoses, buildings, sheds, barbecue grills, satellite dish antennas, or planters.

c. Flower beds, gardens, orchards, or ornamental plantings of any type.

d. The spreading of gravel or any other material to construct a path or drive.

e. The storage of any item including firewood, boats, playground equipment, lawn furniture, picnic tables, trash cans, bird baths, pet houses and pens, ornamental concrete, ceramic figures, scrap material, etc.

f. The disposal of litter, leaves, trash, or any other debris or waste.

g. Excavation, cutting, or filling on public property.

All unauthorized structures and private items shall be removed

not involve a direct discharge of fill material as described in Paragraph c., above. Penalties for fish kills resulting from water pollution are assessed by the Kentucky Department of Fish and Wildlife Resources.

e. Municipal and Industrial Discharges. Industries and municipal sewage treatment plants located adjacent to public property which have outfalls designed to discharge treated effluent directly into the lake are regulated and monitored by the Kentucky Division of Water.

34. Appeals Process. Most problems concerning shoreline management can be resolved at the local level through the Resource Manager. If a problem cannot be resolved at this level, documentation of the dispute may be forwarded to the District Engineer for review. The review will focus on any procedural deficiencies in the Resource Manager's decision, or conflicts with the decision and the Shoreline Management Plan. The decision of the District Engineer is final.

35. Procedures for Items Not Otherwise Covered in this Plan.

There may be occasions when requests for privileges or work within the scope of shoreline management arise which are not specifically addressed in this plan. If this occurs, the Resource Manager will take the following actions:

a. Review the request for general conformance with the objectives and intent of the Shoreline Management Plan. Determine if the request is likely a one-time event or whether it will likely be a recurring demand.

b. If the request is likely a one-time event and a decision concerning the application could clearly be shown to be either contrary to, or not contrary to, the overall public interest in light of the objectives of the Shoreline Management Plan, the Resource Manager shall approve or deny the request in a timely manner and document the administrative file as to the nature of the request and reasons for actions taken.

c. If the request would likely be of a recurring nature, in addition to making a determination and taking action as in (b), above, the Resource Manager shall forward a copy of the documentation to the Nashville District Office, with a proposal of how such requests should be addressed in updates to the Shoreline Management Plan.

d. If a request is highly controversial, could impact the administration of the shoreline management program by setting a precedent for similar proposals, or is not clearly in, or is contrary to, the overall public interest, the Resource Manager

shall forward the request to the District Office for review and joint determination as to the proper course of action. The applicant will be advised in a timely manner as to the status of his or her request and informed of the anticipated date of a decision on the request. Once a decision is made, the Resource Manager will draft proposed wording to be included in updates to the Shoreline Management Plan to address similar requests, and submit the proposal to the District Office for review.

36. **General Evaluation of the Plan.** This Shoreline Management Plan is intended to provide optimum benefits to the general public and to conserve the natural resources of Lake Cumberland. Present and future recreational needs of the general public and environmental considerations were evaluated in formulating the plan. This Shoreline Management Plan will be reviewed periodically, but no less often than every five years, to determine the need for update. This plan is prepared as an appendix to Part II of the Operational Management Plan for Lake Cumberland.

37. **Public Involvement.** Public meetings will be held to seek public input and involvement for any major update in the Shoreline Management Plan or the Project Master Plan. This will also apply to policy revisions that affect changes in land use and/or impact a large number of people.